

## Message Text

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ACTION OES-07

INFO OCT-01 ARA-14 ISO-00 NRC-07 FEA-01 ERDA-07 AID-05

CEA-01 CIAE-00 COME-00 DODE-00 EB-08 FPC-01 H-02

INR-07 INT-05 L-03 NSAE-00 NSC-05 OMB-01 PM-05

USIA-15 SP-02 SS-15 STR-04 TRSE-00 ACDA-10 /126 W

-----013476 082114Z /64

R 081300Z SEP 77

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC 3615

UNCLAS BRASILIA 7369

DEPT. PASS TO NRC EILPERIN

E.O. 11652: N/A

TAGS: ENRG, BR

SUBJECT: PRESIDENT PROPOSES LEGISLATION ON LIABILITY  
FOR NUCLEAR ACCIDENTS

REF: (A) 76 STATE 227205 (B) BRASILIA 707

1. SUMMARY. PRESIDENT GEISEL SUBMITTED A DRAFT BILL TO THE BRAZILIAN CONGRESS ON SEPTEMBER 1, 1977 PROVIDING FOR LIABILITY FOR NUCLEAR ACCIDENTS IN BRAZIL AS WELL AS FOR CRIMINAL RESPONSIBILITY FOR ACTIONS

RELATED TO NUCLEAR ENERGY. THE BRAZILIAN CONGRESS WILL HAVE 40 DAYS TO APPROVE, AMEND OR REJECT THE DRAFT BILL. IN THE RATIONALE PRESENTED

TO THE PRESIDENT, THE INTERMINISTERIAL WORKING GROUP WHICH ELABORATED THE DRAFT BILL STATES THAT IN THE AREA OF CIVIL LIABILITY, THE GROUP HAS TAKEN INTO CONSIDERATION THE DESIRABILITY OF ADAPTING THE DRAFT BILL TO INTERNATIONAL CONVENTIONS IN FORCE TO WHICH BRAZIL MIGHT ADHERE, SUCH AS THE VIENNA CONVENTION. THE HIGHLIGHTS OF THE DRAFT BILL ARE GIVEN IN THE TEXT BELOW. END SUMMARY.

2. NUCLEAR POWER PLANT OPERATORS, WHETHER AT FAULT OR NOT, WILL BE UNCLASSIFIED

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HELD LIABLE FOR COMPENSATION OF ANY NUCLEAR DAMAGE CAUSED BY A NUCLEAR ACCIDENT.

3. OPERATORS ARE EXEMPTED FROM PAYING COMPENSATION FOR NUCLEAR ACCIDENTS WHICH HAVE RESULTED FROM ARMED CONFLICTS, HOSTILITIES, CIVIL WAR, UPRISINGS OR ACTS OF GOD.

4. THE LIABILITY OF OPERATORS, IN EACH NUCLEAR ACCIDENT, IS LIMITED TO A VALUE EQUIVALENT TO 1.5 MILLION NATIONAL TREASURY READJUSTABLE SECURITIES (ORTN) WHICH IS APPROXIMATELY 330 MILLION CRUZEIROS OR 22.3 MILLION DOLLARS AT CURRENT PRICES. THIS AMOUNT DOES NOT INCLUDE INTEREST, ATTORNEY AND OTHER LEGAL AND COURT FEES. THE FEDERAL GOVERNMENT WILL GUARANTEE, UP TO THAT CEILING, COMPENSATION FOR ANY OPERATOR-RELATED NUCLEAR DAMAGE AS WELL AS COMPENSATION FOR ACCIDENTS CAUSED BY NUCLEAR MATERIAL WHICH IS ILLEGALLY POSSESSED OR UTILIZED, IN WHICH NO OPERATOR IS INVOLVED. IF THE INDEMNIFICATION EXCEEDS THAT CEILING, IT WILL BE PRORATED AMONG THE CREDITORS IN PROPORTION TO THEIR RIGHTS.

5. OPERATORS MUST OBTAIN INSURANCE OR ANY OTHER FINANCIAL PROTECTION TO COVER PERSONAL AND MATERIAL DAMAGES WHICH MAY RESULT FROM NUCLEAR ACCIDENTS. AND KIND OF FINANCIAL PROTECTION AND ITS VALUE WILL BE ESTABLISHED BY THE BRAZILIAN NUCLEAR ENERGY COMMISSION (CNEN), WHICH WILL TAKE INTO CONSIDERATION FACTORS SUCH AS THE TYPE, CAPACITY, PURPOSE AND LOCATION OF THE NUCLEAR FACILITY. THE OPERATOR CAN ALSO BE EXEMPTED FROM THIS REQUIREMENT IF THE RISKS INVOLVED ARE SMALL.

6. CASES OF DAMAGE CAUSED BY EMISSION OF IONIZING RADIATION WHICH DO NOT CONSTITUTE A NUCLEAR ACCIDENT WILL NOT BE COVERED BY THIS LAW.  
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7. INDEMNIFICATION FOR INJURIES CAUSED TO THOSE WHO WORK WITH NUCLEAR MATERIAL OR IN NUCLEAR INSTALLATIONS WILL BE GOVERNED BY THE SPECIAL LAW ON LABOR ACCIDENTS.

8. IN ADDITION TO THE CASES PROVIDED FOR IN THE NATIONAL SECURITY LAW AND OTHER LAWS, THE DRAFT BILL LISTS A SERIES OF ACTIONS RELATED TO THE EXPLORATION AND UTILIZATION OF NUCLEAR ENERGY WHICH WILL BE CONSIDERED AS CRIMINAL ACTS. AMONG THE ARE, FOR EXAMPLE, THE FOLLOWING: (A) TO PRODUCE, PROCESS, SUPPLY, CARRY, PURCHASE, TRANSFER, TRANSPORT, IMPORT, EXPORT OR USE NUCLEAR MATERIAL WITHOUT AUTHORIZATION; (B) TO ALLOW THE OPERATION OF A NUCLEAR INSTALLATION WITHOUT AUTHORIZATION; (C) TO ILLEGALLY PASS SECRET INFORMATION ON NUCLEAR ENERGY; (D) TO ILLEGALLY EXTRACT, ENRICH OR TRADE WITH NUCLEAR MINERALS; (E) TO VIOLATE RULES GOVERNING SECURITY OR PROTECTION OF NUCLEAR INSTALLATIONS OR THE USE TRANSPORTATION, POSSESSION OR CUSTODY OF NUCLEAR MATERIAL, THREATENING THE LIFE, PHYSICAL INTEGRITY OR THE PROPERTY OF OTHERS.

9. A COPY OF AN ENGLISH TRANSLATION OF THE DRAFT WILL FOLLOW FOR NCR BY POUCH.

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## Message Attributes

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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
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